

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Basil Morales,

Case No. 3:09 CV 2222

Plaintiff,

MEMORANDUM OPINION  
AND ORDER

-vs-

JUDGE JACK ZOUHARY

State of Ohio,

Defendant.

On September 25, 2009, *pro se* Plaintiff Basil Morales brought this action against the State of Ohio under 42 U.S.C. § 1983. The Complaint alleges grounds for reversal of his criminal conviction (Doc. No. 1). For the reasons stated below, this action is dismissed.

A district court is expressly authorized to dismiss any civil action filed by a prisoner seeking relief from a governmental entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A.

Plaintiff is challenging the validity of his state conviction and its effect on the duration of his present confinement. When a prisoner challenges “the very fact or duration of his physical imprisonment, . . . his sole federal remedy is a writ of habeas corpus.” *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

Accordingly, this action is dismissed under 28 U.S.C. § 1915A. Further, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

In light of this ruling, the Motion to Proceed Informa Pauperis (Doc. No. 2) is denied as moot.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

October 28, 2009